

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

TOWNSEL MYERS, JR.,

Petitioner,

VS.

WILLIAM STEPHENS,

Respondent.

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CIVIL ACTION NO. 2:14-CV-114

**OPINION AND ORDER DENYING WITHOUT PREJUDICE**  
**MOTION FOR APPOINTMENT OF COUNSEL**

Pending in this § 2254 matter is Petitioner's motion for appointment of counsel (D.E. 54).

There is no constitutional right to counsel in federal habeas proceedings. *Johnson v. Hargett*, 978 F.2d 855 (5th Cir. 1992). Rule 8 of the Rules Governing § 2254 Cases requires that counsel be appointed if the habeas petition raises issues which mandate an evidentiary hearing. Service of process was ordered and Respondent filed a motion for summary judgment on August 21, 2014 (D.E. 64). Petitioner's response is due September 20, 2014. At this point there are no issues which mandate an evidentiary hearing.

An evidentiary hearing will be scheduled and counsel will be assigned *sua sponte* if there are issues which mandate a hearing. Moreover, counsel may be assigned if discovery is ordered and issues necessitating the assignment of counsel are evident. Rule 6(a) of the Rules Governing § 2254 Cases; *Thomas v. Scott*, 47 F.3d 713, 715 n. 1 (5th Cir. 1995).

Accordingly, petitioner's motion for appointment of counsel (D.E. 54) is denied without prejudice.

ORDERED this 22nd day of August, 2014.

  
B. JANICE ELLINGTON  
UNITED STATES MAGISTRATE JUDGE